

### § 503.3

### 29 CFR Ch. V (7–1–13 Edition)

the provisions of the H-2B visa program in the Territory of Guam. Under DHS regulations, 8 CFR 214.2(h)(6)(v), administration of the H-2B temporary labor certification program is undertaken by the Governor of Guam, or the Governor's designated representative.

#### § 503.3 Coordination among Governmental agencies.

(a) Complaints received by ETA or any State Workforce Agency (SWA) regarding noncompliance with H-2B statutory or regulatory labor standards will be immediately forwarded to the appropriate WHD office for suitable action under the regulations in this part.

(b) Information received in the course of processing registrations and applications, program integrity measures, or enforcement actions may be shared between OFLC and WHD or, where applicable to employer enforcement under the H-2B program, may be forwarded to other agencies as appropriate, including the Department of State (DOS) and DHS.

(c) A specific violation for which debarment is sought will be cited in a single debarment proceeding. OFLC and the WHD will coordinate their activities to achieve this result. Copies of final debarment decisions will be forwarded to DHS promptly.

#### § 503.4 Definition of terms.

For purposes of this part:

*Act* means the Immigration and Nationality Act or INA, as amended, 8 U.S.C. 1101 *et seq.*

*Administrative Law Judge (ALJ)* means a person within the Department's Office of Administrative Law Judges appointed under 5 U.S.C. 3105.

*Administrator, Office of Foreign Labor Certification (OFLC)* means the primary official of the Office of Foreign Labor Certification, ETA, or the Administrator's designee.

*Administrator, Wage and Hour Division (WHD)* means the primary official of the WHD, or the Administrator's designee.

*Agent.* (1) *Agent* means a legal entity or person who:

(i) Is authorized to act on behalf of an employer for temporary non-agricultural labor certification purposes;

(ii) Is not itself an employer, or a joint employer, as defined in this part with respect to a specific application; and

(iii) Is not an association or other organization of employers.

(2) No agent who is under suspension, debarment, expulsion, disbarment, or otherwise restricted from practice before any court, the Department, the Executive Office for Immigration Review under 8 CFR 1003.101, or DHS under 8 CFR 292.3 may represent an employer under this part.

*Agricultural labor or services* means those duties and occupations defined in 20 CFR 655.100.

*Applicant* means a U.S. worker who is applying for a job opportunity for which an employer has filed an *Application for Temporary Employment Certification* (ETA Form 9142 and the appropriate appendices).

*Application for Temporary Employment Certification* means the Office of Management and Budget (OMB)-approved ETA Form 9142 and the appropriate appendices, a valid wage determination, as required by 20 CFR 655.10, and a subsequently-filed U.S. worker recruitment report, submitted by an employer to secure a temporary labor certification determination from DOL.

*Area of intended employment* means the geographic area within normal commuting distance of the place (worksite address) of the job opportunity for which the certification is sought. There is no rigid measure of distance that constitutes a normal commuting distance or normal commuting area, because there may be widely varying factual circumstances among different areas (*e.g.*, average commuting times, barriers to reaching the worksite, or quality of the regional transportation network). If the place of intended employment is within a Metropolitan Statistical Area (MSA), including a multistate MSA, any place within the MSA is deemed to be within normal commuting distance of the place of intended employment. The borders of MSAs are not controlling in the identification of the normal commuting area; a location outside of an MSA may be within normal commuting distance of a location that is inside (*e.g.*, near the border of) the MSA.